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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,565	11/15/2001	Anja Drucks	P29706	2712
7055 7590 08/14/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER KIM, JENNIFER M	
			ART UNIT 1617	PAPER NUMBER
			NOTIFICATION DATE 08/14/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/001,565	<b>Applicant(s)</b> DRUCKS ET AL.	
	<b>Examiner</b> Jennifer Kim	<b>Art Unit</b> 1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 21-32 and 34-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-32, 34-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on April 30, 2007 has been entered.

Applicants' arguments and amendment have been fully considered and are persuasive. Therefore, the rejections made on the previous Office Action have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in this Office Action as follows:

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 21-32 and 34-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gott et al. (US 2002/0071859A1) in view of Ullmann's Encyclopedia of Industrial Chemistry Fifth Completely Revised Edition, Vol. A17, of record (Ullmann).

Gott et al. teach cosmetic towelettes composition comprising a water insoluble substrate and a fluid cosmetic composition impregnated into the substrate. (abstract). Gott et al. teach that the composition has a viscosity ranging from about 1 cps to 10,000 cps. (abstract). Gott et al. teach that the composition have a viscosity ranging preferably from about 5 to about 1,000 cps, optimally from about 5 to about 500 cps.

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[[0019]]. The range encompasses Applicants' range set forth in claims 21, 39 and 40. Gott et al. teach that towelettes is impregnated with sunscreen agent delivers the sunscreen to the skin in a highly efficient manner. [[0019]]. Gott et al. teach that water and a sunscreen phase constitute the composition and the water phase range in amount from about 80 to about 99%, preferably from about 85 to about 95%. This water content encompasses Applicants' amount set forth in claim 31. Gott et al. teach that small amounts of emollients such as silicone, silicone oil and fatty alcohols can be employed in the composition ([0038], [0040]). Gott et al. teach that ingredients such as vitamin C (antioxidant), fragrance (perfume), herbal extracts, vitamins including vitamin C (antioxidant), softener, glycolic acid (moisturizer) and anti-irritant agents can be also employed in the composition. ([0023], [0045], [0058], [0072]). Gott et al. teach that non-woven article is preferred as a towelette. ([0055]). Gott et al. teach that the towelettes can comprising two or more layers, each having a different texture and abrasiveness and can manufactured to have different colors. ([0058]). Gott et al. teaches various nonwoven substrates can be employed in the composition. ([0051]-[0055]). Gott et al. teach that nonwoven fibers such as 100% rayon (viscose fiber) can be employed in the towelette composition. ([0054]). Got et al. teach that the a wide variety of materials can be used as towelette having characteristics of having sufficient wet strength for use, sufficient abrasivity, sufficient loft and porosity, sufficient thickness, appropriate size, and non-reactive with components of the impregnating composition. ([0047]).

Gott et al. do not teach the wipe exhibiting a uniform sequence of elevations and indentations, specific formulations such as emulsion or microemulsion, amount ratios and thickness, tear strength, expandability and the thickness of the fiber.

Ullmann teaches viscose fibers have increased used in wet-laid nonwoven and in water entanglement process of manufacturing nonwoven that are environmentally friendly because the viscose fibers are readily degradable. (page 568, under Viscose fibers).

It would have been obvious to one of ordinary skill in the art to modify the Gott et al.'s towelette product particularly employing viscose fiber such as rayon because Gott et al. teach that various synthetic materials can be employed as a substrate for the towelette product including rayon and because viscose fiber are environmentally friendly as taught by Ullmann. One would have been motivated to employ particularly employ viscose fiber generally disclosed by Gott et al. in order to achieve a readily degradable environmental friendly towelette product as taught by Ullmann. With regard to the wipe exhibiting a uniform sequence of elevations and indentations, Gott et al. teach that the towelettes have a different texture and abrasiveness and sufficient abrasivity, sufficient loft and porosity. The teaching of the towelette having sufficient loft contemplates the limitation of uniform sequence of elevation and the towelette having abrasiveness and porosity and sufficient abrasivity encompasses the limitation of indentation in the fabric.

The amounts of active agents to be used, the pharmaceutical forms, e.g., emulsions or microemulsion are all deemed obvious since they are all within the knowledge of the skilled pharmacologist and represent conventional formulations and

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modes of administration. Further, to optimize the thickness, tear strength, expandability of the fibers to be used are deemed obvious because Gott et al. teach that the characteristics of having sufficient wet strength for use, sufficient abrasivity, sufficient loft and porosity, sufficient thickness, appropriate size, and non-reactive with components of the impregnating composition in general. Therefore, no unobviousness is seen in the claimed optimization of these parameters because Gott et al. teaches the sufficient requirement of the parameters of the fibers are general.

For these reasons the claimed subject matter is deemed to fail to patentably distinguish over the state of the art as represented by the cited references. The claims are therefore properly rejected under 35 U.S.C. 103.

### ***Response to Arguments***

Applicants' arguments filed April 30, 2007 have been fully considered but they are not persuasive. Applicants argue that Ullmann does not related to embossing. This is not persuasive because Ullmann teaches the benefits of viscose fiber. Therefore, it would have been obvious to one of ordinary skill in the art to modify the teaching of Gott et al. to employ viscose fiber in the towelette product in order to achieve the advantages of viscose fiber taught by Ullmann.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Kim whose telephone number is 571-272-0628. The examiner can normally be reached on Monday through Friday 6:30 am to 3 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jennifer Kim  
Patent Examiner  
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Jmk

August 6, 2007